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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,616	07/07/2003	Jeffrey Fasnacht	SJ-101US	7479
24314	7590	05/23/2005	EXAMINER	
JANSSON, SHUPE & MUNGER, LTD 245 MAIN STREET RACINE, WI 53403			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
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DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/614,616	Applicant(s) FASNACHT, JEFFREY	
	Examiner David J Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20,27-33 and 35-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20,27-33 and 35-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 5-12-05 and this action is non-final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 15, 27-30, 33, 35-36, 39-40, 42-43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,601,336 to Link in view of U.S. Patent No. 5,253,446 to Ogle.

Referring to claims 1, 3, 29 and 39, Link discloses a spinnerbait lure having a frame – at 22,24,60, or 92,94, the frame having upper and lower arms – at 22,24 or at 92,94, extending divergently from a frame-vertex – at 60 or at the junction of 92,94 as seen in figure 10, in a predetermined shape in a non-stressed condition – see for example figures 4 and 10, the shape having the arms in a substantially fixed configuration with one another – see for example figures 4 and 10, with at least one blade – at 38, and a jig – at 52-70 or 90, secured to the frame – see for

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example figures 4 and 10, the improvement wherein the frame is formed of an integral length of material being selected such that the frame always retains the original configuration absent force-induced flexing sufficient to break the frame – see for example figures 4 and 10 and the jig is embedded in the frame – see for example figures 4 and 10. Link in the embodiments of figures 4 and 10, does not disclose the frame is formed of a polymeric material. Ogle does disclose the frame – at 12-16, is formed of a polymeric material – see for example column 4 lines 20-34. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link and add the polymeric material of Ogle, so as to allow for the device to be made of differing colors attractive to fish. Link as modified by Ogle further discloses a fishing line/leader is attachable with respect to the frame substantially adjacent to the frame-vertex – see for example at 10 in figure 1 of Link and – at 20 in figure 1 of Ogle.

Referring to claim 2, Link as modified by Ogle further discloses the frame is dimensioned to exhibit durability and vibratory action during fishing – see for example figures 4 and 10 of Link and figure 1 of Ogle.

Referring to claim 4, Link as modified by Ogle further discloses the upper arm is substantially coplanar with the lower arm – see for example – at 22 in figure 4 of Link, - at 92,94 in figure 10 of Link and – at 12 in figure 1 of Ogle.

Referring to claim 15, Link as modified by Ogle further discloses the polymeric material has color – see for example column 4 lines 20-34 of Ogle.

Referring to claims 27-28, Link as modified by Ogle further discloses the lower arm has a lower distal end – see for example figure 4 of Link, the jig head – at 52,61,62, is embedded within the lower distal end – see for example figure 4 of Link, the jig head has a jig proximal end

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– see for example figure 4 of Link, and the lower arm is substantially tapered – at 24, adjacent to the jig proximal end – see for example figure 4, whereby stresses upon the lower arm from deflection at the lower distal end are diffused throughout the lower arm – see for example figure 4 of Link.

Referring to claim 30, Link as modified by Ogle further discloses the upper arm defines an upper aperture – at 24, to attach the blade – at 38, with respect to the frame – see for example figure 4 of Link.

Referring to claim 33, Link as modified by Ogle further discloses the frame is formed in a molding process – see for example column 4 lines 20-34 of Ogle.

Referring to claim 35, Link as modified by Ogle further discloses the frame is dimensioned such that the frame exhibits resilience during fishing – see for example figures 4 and 10 of Link and figure 1 of Ogle.

Referring to claim 36, Link as modified by Ogle further discloses at least the upper arm has an oblong cross-section – at 24 as seen in figure 4 of Link, thereby imparting a preferential directionality to vibration of the upper arm – see for example figure 4 of Link.

Referring to claim 40, Link as modified by Ogle further discloses at least the upper arm – at 22,24, has an oblong cross-section – at 24, thereby imparting a preferential directionality to vibration of the upper arm – see for example figure 4 of Link.

Referring to claim 46, Link as modified by Ogle further discloses a metal body embedded within the frame – see for example figures 4 or 10 of Link and column 4 lines 20-34 of Ogle.

Referring to claim 42, Link as modified by Ogle further discloses the metal body is a jig – at 50-70 of Link, the lower arm has a lower distal end – see figure 4 of Link, the jig has a jig

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head – at 50-62, and a hook – at 70, and the jig head is embedded within the lower distal end – see for example figure 4 of Link.

Referring to claim 43, Link as modified by Ogle further discloses the jig head has a jig proximal end – see for example figure 4 of Link, and the lower end is substantially tapered – at 24, adjacent to the jig proximal end, whereby stresses upon the arm from deflection at the distal end are diffused throughout the lower arm – see for example figure 4 of Link.

Claims 5-13, 37-38 and 41, are rejected under 35 U.S.C. 103(a) as being unpatentable over Link as modified by Ogle as applied to claims 4, 36 or 40 above, and further in view of U.S. Patent No. 4,640,040 to Smith.

Referring to claim 5, Link as modified by Ogle does not disclose at least the upper arm has an oblong cross section, thereby imparting a preferential directionality to vibration of the upper arm. Smith does disclose the upper arm – at 12, has an oblong cross-section – see for example figures 1-2 and 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link as modified by Ogle and add the upper arm of oblong cross section of Smith, so as to allow for objects to be movably connected to the frame.

Referring to claim 6, Link as modified by Ogle and Smith further disclose the upper arm – at 12 of Smith, has an upper distal end and the cross section of the upper arm has an area that progressively decreases from the frame vertex toward the upper distal end – see for example figures 1-2 and 6 of Smith.

Referring to claim 7, Link as modified by Ogle and Smith further discloses the cross-section of the upper arm has two dimensions, the greater dimension of the cross section of the upper arm is in the plane of the frame – see for example figures 1-2 and 6 of Smith.

Referring to claim 8, Link as modified by Ogle and Smith further discloses the frame vertex defines a line-aperture – at the forward portion 12 of Ogle, whereby a fishing line/leader is attachable with respect to the frame at the line aperture – see for example figure 1 and column 3 lines 53-61 of Ogle.

Referring to claim 9, Link as modified by Ogle and Smith further discloses the frame is curved at the frame vertex – see for example figures 4 and 10 of Link and figure 1 of Ogle.

Referring to claim 10, Link as modified by Ogle and Smith further discloses the lower arm has a lower distal end and the jig is embedded within the lower arm at the lower distal end – see for example figures 1, 4 and 10 of Link.

Referring to claim 11, Link as modified by Ogle and Smith further discloses the jig has a jig head – at 52,62 in figure 4 of Link, and a hook – at 70 in figure 4 of Link, and the jig head is embedded within the lower distal end – see for example figures 1 and 4 of Link.

Referring to claim 12, Link as modified by Ogle and Smith further discloses the jig head – at 52,62 in figure 4 of Link, has a jig proximal end – see figure 4, and the lower arm – at 22, is substantially tapered – at 24, adjacent to the jig proximal end, whereby stresses upon the arm from deflection at the distal end are diffused throughout the lower arm – see for example figure 4 of Link.

Referring to claim 13, Link as modified by Ogle and Smith further discloses the upper arm defines an upper aperture – at the interior of 24, to attach the blade – at 38, with respect to the frame – see for example figure 4 of Link.

Referring to claim 37, Link as modified by Ogle does not disclose the upper arm has an upper distal end and the cross-section of the upper arm has an area that progressively decreases

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from the frame vertex toward the upper distal end. Smith does disclose the upper arm – at 12, has an upper distal end and the cross section of the upper arm has an area that progressively decreases from the frame vertex toward the upper distal end – see for example figures 1-2 and 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link as modified by Ogle and add the upper arm of Smith, so as to allow for the device to securely and adjustably hold a hook to the frame.

Referring to claim 38, Link as modified by Ogle and Smith further discloses the cross section of the upper arm – at 22 of Link or – at 12 of Smith, has two dimensions, the greater dimension being in the plane of the frame – see for example figure 4 of Link and figure 1 of Smith.

Referring to claim 41, Link as modified by Ogle does not disclose the upper arm has an upper distal end and the cross-section of the upper arm has an area that progressively decreases from the frame vertex toward the upper distal end and the cross section of the upper arm has two dimensions, the greater dimension being in the plane of the frame. Smith does disclose the upper arm – at 12, has an upper distal end and the cross section of the upper arm has an area that progressively decreases from the frame vertex toward the upper distal end – see for example figures 1-2 and 6. Smith further discloses the cross section of the upper arm – at 22 of Link or – at 12 of Smith, has two dimensions, the greater dimension being in the plane of the frame – see for example figure 4 of Link and figure 1 of Smith. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link as modified by Ogle and add the upper arm of Smith, so as to allow for the device to securely and adjustably hold a hook to the frame.

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Referring to claim 7, Ogle and Link as modified by Smith further discloses the greater dimension of the cross section of the upper arm is in the plane of the frame – see for example figures 1-2 and 6 of Smith.

Claims 14, 31-32 and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Link as modified by Ogle as applied to claims 2, 30 or 39 above, and further in view of U.S. Patent No. 4,133,134 to Cheng.

Referring to claims 14, 31 and 39, Link as modified by Ogle does not disclose the polymeric material is transparent. Cheng does disclose the polymeric material – at 10, is transparent – see for example column 2 lines 42-56. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link as modified by Ogle and add the polymeric material being transparent of Cheng, so as to allow for the interior of the polymeric material to be visible.

Referring to claims 32 and 45, Link as modified by Ogle and Cheng further discloses the polymeric material has color – see for example column 4 lines 20-34.

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Link as modified by Ogle as applied to claim 15 above, and further in view of U.S. Patent No. 6,226,917 to Sylla et al.

Referring to claim 16, Link as modified by Ogle does not disclose the polymeric material comprises polycarbonate. Sylla et al. does disclose the polymeric material – at 14,16, comprises polycarbonate – see for example column 3 lines 50-56. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link as modified by Ogle and add the

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polymeric material being polycarbonate of Sylla et al., so as to allow for the device to be both lightweight and durable.

Referring to claim 17, Link as modified by Ogle and Sylla et al. further discloses a fishing line/leader is attachable with respect to the frame substantially adjacent to the frame-vertex – see for example figures 1 and 4 of Link and figure 1 of Ogle.

Referring to claim 18, Link as modified by Ogle and Sylla et al. further discloses the jig has a jig-head – at 52,61,62, and a hook – at 70, the jig head is embedded within the lower arm – see for example figures 1 and 4 of Link.

Referring to claim 19, Link as modified by Ogle and Sylla et al. further discloses the upper arm defines an upper aperture – at 24, to attach the blade – at 38, with respect to the frame – see for example figure 4 of Link.

Referring to claim 20, Link as modified by Ogle and Sylla et al. further discloses the lower arm has a lower distal end – see for example figure 4 of Link, the jig head – at 52,61,62, is embedded within the lower distal end – see for example figure 4 of Link, the jig head has a jig proximal end – see for example figure 4 of Link, and the lower arm is substantially tapered – at 24, adjacent to the jig proximal end – see for example figure 4, whereby stresses upon the lower arm from deflection at the lower distal end are diffused throughout the lower arm – see for example figure 4 of Link.

Response to Arguments

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3. Applicant's arguments with respect to claims 1-20, 27-33 and 35-46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley
Patent Examiner
Art Unit 3643



PETER M. POON
SUPERVISORY PATENT EXAMINER

5/18/05